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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEVIN D. WALKER,
Plaintiff,
v.
SALINAS VALLEY PRISON, et al.,
Defendants.

Case No. 1:20-cv-00546-NONE-JLT (PC)

**FINDINGS AND RECOMMENDATIONS
TO DISMISS ACTION**

21-DAY DEADLINE

Plaintiff alleges prison officials unlawfully withdrew funds from his inmate trust account. (Doc. 1.) The Court finds that Plaintiff’s complaint fails to state a cognizable claim under federal law, and its remaining claims arise under state law. The Court further finds that the deficiencies in the complaint cannot be cured by amendment and, therefore, recommends that this action be dismissed. *See Akhtar v. Mesa*, 698 F.3d 1202, 1212-13 (9th Cir. 2012).

I. SCREENING REQUIREMENT

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if the prisoner raises claims that are frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b). The Court should dismiss a complaint if it lacks a cognizable legal theory or fails to allege sufficient facts to

1 support a cognizable legal theory. *See Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th
2 Cir. 1990).

3 **II. PLEADING REQUIREMENTS**

4 **A. Federal Rule of Civil Procedure 8(a)**

5 “Rule 8(a)’s simplified pleading standard applies to all civil actions, with limited
6 exceptions.” *Swierkiewicz v. Sorema N. A.*, 534 U.S. 506, 513 (2002). A complaint must contain
7 “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R.
8 Civ. Pro. 8(a)(2). “Such a statement must simply give the defendant fair notice of what the
9 plaintiff’s claim is and the grounds upon which it rests.” *Swierkiewicz*, 534 U.S. at 512 (internal
10 quotation marks and citation omitted).

11 Detailed factual allegations are not required, but “[t]hreadbare recitals of the elements of a
12 cause of action, supported by mere conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556
13 U.S. 662, 678 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). Plaintiff must
14 set forth “sufficient factual matter, accepted as true, to ‘state a claim that is plausible on its face.’”
15 *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 570). Factual allegations are accepted as
16 true, but legal conclusions are not. *Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at 555).

17 The Court construes pleadings of *pro se* prisoners liberally and affords them the benefit of
18 any doubt. *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010) (citation omitted). However, “the
19 liberal pleading standard ... applies only to a plaintiff’s factual allegations,” not his legal theories.
20 *Neitze v. Williams*, 490 U.S. 319, 330 n.9 (1989). Furthermore, “a liberal interpretation of a civil
21 rights complaint may not supply essential elements of the claim that were not initially pled,”
22 *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir. 1997) (internal quotation
23 marks and citation omitted), and courts “are not required to indulge unwarranted inferences.” *Doe*
24 *I v. Wal-Mart Stores, Inc.*, 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation marks and
25 citation omitted). The “sheer possibility that a defendant has acted unlawfully” is not sufficient to
26 state a cognizable claim, and “facts that are merely consistent with a defendant’s liability” fall
27 short. *Iqbal*, 556 U.S. at 678 (internal quotation marks and citation omitted).

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1 **B. Linkage and Causation**

2 Section 1983 provides a cause of action for the violation of constitutional or other federal
3 rights by persons acting under color of state law. *See* 42 U.S.C. § 1983. To state a claim under
4 section 1983, a plaintiff must show a causal connection or link between the actions of the
5 defendants and the deprivation alleged to have been suffered by the plaintiff. *See Rizzo v. Goode*,
6 423 U.S. 362, 373-75 (1976). The Ninth Circuit has held that “[a] person ‘subjects’ another to the
7 deprivation of a constitutional right, within the meaning of section 1983, if he does an affirmative
8 act, participates in another’s affirmative acts, or omits to perform an act which he is legally
9 required to do that causes the deprivation of which complaint is made.” *Johnson v. Duffy*, 588
10 F.2d 740, 743 (9th Cir. 1978) (citation omitted).

11 **III. DISCUSSION**

12 **A. Plaintiff’s Allegations**

13 In 1991, Plaintiff was convicted of a state crime and ordered to pay restitution in the
14 amount of \$10,000. (*See* Doc. 1 at 4.) Plaintiff alleges that, pursuant to the California
15 Government Code, victims must apply to receive compensation from the state’s restitution fund.
16 (*Id.*) Plaintiff states that he has never received a “receipt for a claim.” (*Id.*) Plaintiff alleges that
17 between 1991 and 2000, he was “fraudulently charged” restitution payments via withdrawals
18 from his inmate trust account. (*Id.* at 5.)

19 In 2000, Plaintiff was released on parole. (*Id.* at 4.) In 2002, Plaintiff violated his parole
20 and was reincarcerated. (*See id.* at 5.) Plaintiff states that, beginning in 2009, his “trust account
21 once again started to be charged fraudulently.” (*Id.*) Plaintiff alleges that he has been fraudulently
22 charged approximately \$1,000 in restitution payments. (*See id.* at 6.)

23 Plaintiff contends that the defendants have violated his due process and equal protection
24 rights and subjected him to cruel and unusual punishment. (*Id.* at 4, 5.)

25 **B. Plaintiff’s Claims for Relief**

26 1. Fourteenth Amendment: Due Process

27 The Due Process Clause of the Fourteenth Amendment protects prisoners from being
28 deprived of property without due process of law. *Wolff v. McDonnell*, 418 U.S. 539, 556 (1974).

1 “An authorized, intentional deprivation of property is actionable under the Due Process Clause.”
2 *Christ v. Hartley*, No. 1:11-cv-00705-AWI-DLB, 2013 WL 127737, at *3 (E.D. Cal. 2013) (citing
3 *Hudson v. Palmer*, 468 U.S. 517, 532 (1984)) (citations omitted). “An authorized deprivation is
4 one carried out pursuant to established state procedures, regulations, or statutes.” *Christ*, 2013
5 WL 127737, at *3 (citing *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 436 (1982) (citation
6 omitted).

7 However, “an *unauthorized* intentional deprivation of property by a state employee does
8 not constitute a violation of ... Due Process ... if a meaningful postdeprivation remedy for the
9 loss is available.” *Hudson*, 468 U.S. at 533 (emphasis added). “California [l]aw provides an
10 adequate post-deprivation remedy for any property deprivations.” *Barnett v. Centoni*, 31 F.3d
11 813, 816-17 (9th Cir. 1994) (citing Cal. Gov’t Code §§ 810-895.) State prisoners “may file suit in
12 state court pursuant to California Government Code §§ 900, *et seq.*, to seek recovery for a tort”
13 committed by a state employee. *Boswell v. Perez*, No. 1:09-cv-00822-MJS, 2011 WL 4500010, at
14 *2 (E.D. Cal. 2011) (citations omitted).

15 Plaintiff implies that the deprivation of his property (i.e., the withdrawal of funds from his
16 inmate trust account) was not authorized by state laws or procedures. For example, he alleges that
17 the withdrawals were made in violation of state regulations and statutes. (*See* Doc. 1 at 4, 5.)
18 Thus, the Court finds that Plaintiff attempts to challenge an unauthorized, intentional deprivation
19 of his property. Plaintiff’s due process claim is therefore not cognizable because he has an
20 adequate post-deprivation remedy under state law. *See Barnett*, 31 F.3d 813, 816-17. Under the
21 California Tort Claims Act, Plaintiff may file suit in state court. *See Boswell*, 2011 WL 4500010,
22 at *2.

23 2. Fourteenth Amendment: Equal Protection

24 “The Equal Protection Clause [of the Fourteenth Amendment] requires the State to treat
25 all similarly situated people equally.” *Shakur v. Schriro*, 514 F.3d 878, 891 (9th Cir. 2008)
26 (citation omitted). To state an equal protection claim, “a plaintiff must show that the defendants
27 acted with an intent or purpose to discriminate against the plaintiff based upon membership in a
28 protected class.” *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (citations omitted).

1 “Intentional discrimination means that a defendant acted at least in part because of a plaintiff’s
2 protected status.” *Maynard v. City of San Jose*, 37 F.3d 1396, 1404 (9th Cir. 1994) (emphasis
3 removed) (citation omitted).

4 “The first step in equal protection analysis is to identify the state’s classification of
5 groups.” *Country Classic Dairies, Inc. v. State of Mont., Dep’t of Commerce Milk Control*
6 *Bureau*, 847 F.2d 593, 596 (9th Cir. 1988). “To accomplish this, a plaintiff can show that the law
7 is applied in a discriminatory manner or imposes different burdens on different classes of people.”
8 *Freeman v. City of Santa Ana*, 68 F.3d 1180, 1187 (9th Cir. 1995).

9 “The next step ... [is] to determine the level of scrutiny.” *Country Classic Dairies*, 847
10 F.2d at 595. “Classifications based on race,” for example, “are subject to strict scrutiny,”
11 *Freeman*, 68 F.3d at 1187, whereas classifications based on gender are subject to “intermediate
12 scrutiny,” *Navarro v. Block*, 72 F.3d 712, 716 (9th Cir. 1995) (citations omitted). Classifications
13 not based on a “suspect” class like race or gender are subject to “rational-basis review.” *Romer v.*
14 *Evans*, 517 U.S. 620, 631 (1996); *Heller v. Doe by Doe*, 509 U.S. 312, 320 (1993) (citations
15 omitted). Under this standard, a classification must have a rational relationship to a legitimate
16 state interest in order to comply with the Equal Protection Clause. *See Romer*, 517 U.S. at 631-32.

17 If an action does not involve an identifiable class, a plaintiff may still establish an equal
18 protection claim if she “alleges that she has been intentionally treated differently from others
19 similarly situated and that there is no rational basis for the difference in treatment.” *Vill. of*
20 *Willowbrook v. Olech*, 528 U.S. 562, 564 (2000) (citations omitted); *Engquist v. Oregon Dep’t of*
21 *Agr.*, 553 U.S. 591, 601 (2008).

22 Plaintiff does not state a cognizable equal protection claim. He does not allege that he is a
23 member of an identifiable class, or that officials discriminated against him based upon
24 membership in such a class. Likewise, Plaintiff does not allege that prison officials treated him
25 differently from others similarly situated without a rational basis.

26 3. Eighth Amendment: Conditions of Confinement

27 “It is undisputed that the treatment a prisoner receives in prison and the conditions under
28 which he is confined are subject to scrutiny under the [Cruel and Unusual Punishments Clause of

1 the] Eighth Amendment.” *Helling v. McKinney*, 509 U.S. 25, 31 (1993). “[P]rison officials must
2 ensure that inmates receive adequate food, clothing, shelter, and medical care, and must ‘take
3 reasonable measures to guarantee the safety of ... inmates.’” *Farmer v. Brennan*, 511 U.S. 825,
4 832 (1994) (citations omitted).

5 “In order to establish ... [an Eighth Amendment] violation, [p]laintiffs must satisfy both
6 the objective and subjective components of a two-part test.” *Hallett v. Morgan*, 296 F.3d 732, 744
7 (9th Cir. 2002) (citation omitted). First, plaintiffs must show that their alleged deprivation is
8 “sufficiently serious.” *Farmer*, 511 U.S. at 834 (citation and internal quotation marks omitted).
9 To be sufficiently serious, the “prison official’s act or omission must result in the denial of ‘the
10 minimal civilized measure of life’s necessities.’” *Id.* (quoting *Rhodes v. Chapman*, 452 U.S. 337,
11 347 (1981)). Second, plaintiffs must show that the prison official was deliberately indifferent to
12 their health or safety. *Farmer*, 511 U.S. at 834. A prison official is deliberately indifferent “if he
13 knows that inmates face a substantial risk of serious harm and disregards that risk by failing to
14 take reasonable measures to abate it.” *Id.* at 847.

15 “Deliberate indifference is a high legal standard.” *Toguchi v. Chung*, 391 F.3d 1051, 1060
16 (9th Cir. 2004). “Under this standard, the prison official must not only ‘be aware of facts from
17 which the inference could be drawn that a substantial risk of serious harm exists,’ but [he] ‘must
18 also draw the inference.’” *Id.* at 1057 (quoting *Farmer*, 511 U.S. at 837). “If a [prison official]
19 should have been aware of the risk, but was not, then the [official] has not violated the Eighth
20 Amendment, no matter how severe the risk.” *Id.* (internal quotation marks and citation omitted).

21 Plaintiff does not satisfy the first, objective prong of a deliberate indifference claim. He
22 does not allege that Defendants deprived him of the “minimal civilized measure of life’s
23 necessities,” such as food, clothing, medical care, or safety. Plaintiff’s allegations regarding his
24 restitution payments do not implicate the Eighth Amendment. Plaintiff therefore not does not
25 state a cognizable claim of cruel and unusual punishment.

26 **C. Subject-Matter Jurisdiction**

27 “[F]ederal courts are courts of limited jurisdiction ... empowered to hear only those cases
28 that (1) are within the judicial power of the United States, as defined in the Constitution, and (2)

1 that have been entrusted to them by a jurisdictional grant by Congress.” *United States v. Jacobo*
2 *Castillo*, 496 F.3d 947, 951 (9th Cir. 2007) (internal quotation marks and citations omitted).
3 “Absent statutory authorization to adjudicate a case, a federal court lacks subject matter
4 jurisdiction over the claim presented.” *Hill v. Sanders*, No. 11-cv-04675-CJC-SS, 2012 WL
5 680273, at *2 (C.D. Cal. 2012).

6 Article III of the U.S. Constitution “provides that ‘[t]he judicial Power shall extend to all
7 Cases, in Law and Equity, arising under this Constitution [and] the Laws of the United States.’”
8 *Jacobo Castillo*, 496 F.3d at 951 (quoting U.S. CONST. art. III, § 2). Federal statutes further
9 provide that “[t]he district courts shall have original jurisdiction of all civil actions arising under
10 the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Additionally, “in any
11 civil action of which the district courts have original jurisdiction, the district courts ... have
12 supplemental jurisdiction over all other claims that are so related to claims in the action within
13 such original jurisdiction that they form part of the same case or controversy.” 28 U.S.C. § 1367.

14 Plaintiff contends that the allegedly fraudulent withdrawals from his trust account violate
15 the federal Constitution and various state laws and regulations. (Doc. 1 at 4, 5.) As explained
16 above, Plaintiff fails to state a cognizable claim under the Constitution or other federal law.
17 Because Plaintiff does not state a cognizable federal claim, the Court may not exercise
18 supplemental jurisdiction over his state-law claims. The Court therefore lacks subject-matter
19 jurisdiction over Plaintiff’s remaining claims.

20 **IV. CONCLUSION AND RECOMMENDATION**

21 For the reasons set forth above, Plaintiff’s complaint fails to state a cognizable claim
22 under federal law; and the Court lacks subject-matter jurisdiction over Plaintiff’s remaining state-
23 law claims. The Court finds that Plaintiff’s complaint cannot be cured by amendment and
24 **RECOMMENDS** that this action be **DISMISSED** without prejudice. *See Akhtar v. Mesa*, 698
25 F.3d 1202, 1212-13 (9th Cir. 2012); *Frigard v. United States*, 862 F.2d 201, 204 (9th Cir. 1988).

26 These Findings and Recommendations will be submitted to the United States District
27 Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). **Within 21 days**
28 of the date of service of these Findings and Recommendations, Plaintiff may file written

1 objections with the Court. The document should be captioned, “Objections to Magistrate Judge’s
2 Findings and Recommendations.” Plaintiff’s failure to file objections within the specified time
3 may result in waiver of his rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir.
4 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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6 IT IS SO ORDERED.

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8 Dated: August 5, 2020

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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